

## REMARKS

Reconsideration and allowance are respectfully requested.

Claims 12-23 are pending. The amendments are fully supported by the original disclosure and, thus, no new matter is added by their entry. Entry of the amendments is requested to address the Examiner's objection and rejections on pages 2-3 of the Office Action. They could not be earlier presented because the claim objection and the claim rejection were initially raised in the final Office Action. Amendment of the claims will also reduce the issues on appeal.

Claim 14 was objected to as allegedly informal. It is amended to correct the informality in accordance with the Examiner's suggestion. Withdrawal of the objection is requested.

### *35 U.S.C. 112 – Definiteness*

Claim 22 was rejected under Section 112, second paragraph, as being allegedly "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Applicants traverse.

The Examiner objects that the term "converting" is unclear. Claim 22 is amended to clarify the intended limitation. Support for the amendment may be found, inter alia, at page 4 (see Scheme 2 and first paragraph) and page 6 (see Example 1) of the specification.

Applicants request withdrawal of the Section 112, second paragraph, rejection because the pending claims are clear and definite.

### *Double Patenting*

Claims 12-23 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being allegedly unpatentable over claims 1-25 of copending Application No. 10/589,999. Applicants traverse because the terminal disclaimer which is submitted herewith overcomes this rejection.

It should be noted that the filing of a terminal disclaimer to overcome a rejection based on non-statutory double patenting is not an admission that the rejection was

proper. See *Quad Environmental Technologies v. Union Sanitary District*, 20 USPQ2d 1392, 1394-95 (Fed. Cir. 1991). The Court stated that the “filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.” Thus, submission of a terminal disclaimer is not an admission that the pending claims are obvious over the claims of copending Application No. 10/589,999.

Withdrawal of the double patenting rejection is requested.

*Conclusion*

Having fully responded to the pending Office Action, Applicants submit that the claims are in condition for allowance and earnestly solicit an early Notice to that effect. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:                     /Gary R. Tanigawa/                      
Gary R. Tanigawa  
Reg. No. 43,180

901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100